

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

TIMELL JONES,

Defendant and Appellant.

E071626

(Super.Ct.No. 18CJ000502)

OPINION

APPEAL from the Superior Court of San Bernardino County. Patrick Lyle Christianson, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Tanya Dellaca, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Timell Jones admitted that he violated the terms of his postrelease community supervision (hereinafter, community supervision). A hearing

officer reinstated him on community supervision, with a modification of his conditions to include a period of incarceration of 150 days in county jail.

Defendant filed a timely notice of appeal concerning the order on the 150-day jail sentence. We affirm.

PROCEDURAL BACKGROUND

On February 4, 2016, defendant was convicted of assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)) in San Bernardino County. He was sentenced to two years in state prison. He was subsequently released on community supervision under specified terms, including that he report to the probation officer in person immediately or upon release and thereafter, as directed.

On February 13, 2018, defendant reported to the probation officer upon his release from custody. He stated he would be reporting homeless in Fontana and San Bernardino. A probation officer directed him to report every Tuesday between 8:00 a.m. and 10:00 a.m. for homeless check-in at the probation office in San Bernardino. Defendant was placed on a GPS ankle monitor.

On February 14, 2018, the probation officer contacted defendant by phone, and defendant said he was in Los Angeles taking care of his pending misdemeanor cases. He reported being homeless in the City of San Bernardino but said he would attempt to get an address in Los Angeles and provide it to the probation officer. He failed to report an address.

On February 20, 2018, defendant reported to the probation office, advised that his phone had been stolen, and reported no changes. Defendant reported to the probation office again on February 27, 2018, but did not report thereafter. The GPS monitoring system showed the unit was still being charged, and that he was residing at different locations in Los Angeles and Compton.

On March 12, 2018, the probation department filed a petition for revocation of defendant's community supervision. The petition alleged he violated the conditions that he cooperate with the probation officer in a plan of rehabilitation, keep the probation officer informed of his place of residence, and report to the probation officer in person immediately or upon release and thereafter, as directed.

On October 17, 2018, a hearing on the petition for revocation was held. Defendant contended that he should not be found in violation for the things alleged in the petition, but he should be found in violation for a crime he committed in Los Angeles. He asserted that his parole officer was contacted, and his parole was put on a hold because he had come into contact with the police. Defendant then cited his community supervision conditions as saying he could be found in violation for coming in contact with the police due to a new case. He said "[t]hey have been having a hold on me since May 1st," and that he should be given credit for time spent in custody in Los Angeles. He also said he could not check in with probation because he was in custody. The hearing officer explained that, despite the parole hold, time served in another county for a

different case could not be credited against the instant case. The hearing officer also noted that defendant failed to check in with probation *before* he was in custody.

The hearing officer informed defendant it could continue the matter one week for him to decide whether he wanted to accept 150 days in county jail, or whether he wanted to set the matter for a hearing. Defendant asked what his release date would be. The hearing officer said he would serve “70 actual days from today,” and defendant indicated he would accept the offer. The hearing officer then explained defendant’s rights to a hearing to prove whether or not he violated his community supervision. Defendant said he understood his rights. He then admitted he violated his community supervision terms by failing to report to the probation department as directed. The court found that he freely admitted the violation and then ordered him “to serve 150 days as half time” with credit for five days served, leaving 70 days to be served.

DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and one potential arguable issue: whether the hearing officer abused its discretion in failing to award defendant custody credit in the instant case for the time he spent in custody on his case in Los Angeles. Counsel has also requested this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, which he has not done.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

McKINSTER
Acting P. J.

We concur:

MILLER
J.

RAPHAEL
J.